



LEGISLATIVE FINANCE COMMITTEE

59TH Montana Legislature

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MINUTES

March 9 & 10, 2006

Room 102, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Fiscal Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document**

ROLL CALL

Sen. Rick Laible
Sen. Mike Cooney
Sen. Carol Williams
Sen. Don Ryan
Sen. John Cobb
Sen. Keith Bales
Rep. Gary Branae
Rep. John Sinrud
Rep. Ray Hawk
Rep. Rick Ripley
Rep. Rosalie Buzzas
Rep. Tim Callahan
Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

Attachments

Visitor's list #1
Roll Call Vote #2
Roll Call Vote #3

Call to Order (Tape 1A-001)

Senator John Cobb, Chairman, called the 195th meeting of the Legislative Finance Committee (LFC) to order at 1:00 p.m. on Thursday, March 9, 2006. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

1. Approval of Minutes for December 6 & 7, 2005 (Tape 1A-007)

MOTON: Rep. Buzzas moved the minutes of the December 6 & 7, 2005 meeting be approved as submitted. **VOTE:** The motion carried unanimously.

Sen. Cobb presented a longevity pin to Clayton Schenck, LFA for 20 years of service working for the State of Montana.

Clayton Schenck, LFA presented longevity pins to staff for their number of years working for the State of Montana.

Sen. Cooney presented a “Bulldog” pin to **Sen. Cobb**, founder of the “Bulldog” Committee.

2. Community College Funding Formula Study: The COE Factor (Tape 1A-076)

Alan Peura, Associate Fiscal Analyst, LFD presented a report on Community College Funding Formula Study: The Cost of Education (COE) Factor (Exhibit 1). This is the final report of a funding study conducted under the direction of the LFC to determine if the COE factor is flawed and, if so, identify formula options. Representatives from the Office of Budget and Program (OBPP) Planning and the Office of the Commissioner of Higher Education (OCHE) participated in the study. The funding study concluded that the COE factor in the community college funding formula has lost relevance and does not appear to bear much relationship to the actual cost of educating Montana resident students at the three community colleges. Mr. Peura concluded his report with three options for the committee to consider and provided a handout outlining the specific options, (Exhibit 1a) and an Appendix on Comparative State Models and Funding Levels. (Exhibit 1b)

Representatives from Flathead Valley Community College, Dawson Community College and Miles Community College testified in favor of Option 3.

Sheila Stearns, OCHE, said they fully support the Community Colleges and staff recommendations. She said she would convey any information to the Board Regents and expressed thanks to the committee for the study.

Mark Bruno, OBPP said they are not opposed to rebasing the number of current expenditures, although option 1, “doing nothing” would cost the least amount of money.

After a lengthy discussion, the committee determined that they did not have sufficient data at this time to make a decision on option 2 or 3, but did agree to eliminate option 1. The LFC requested staff provide additional data in advance of the June meeting.

3. Status Report on LFC Interim Subcommittees/Studies (Tape 1B-610)

Resource Indemnity Trust Statutes and Policies

Barbara Smith, LFD provided an update on HJR 36 – Resource Indemnity Trust. The subcommittee met on March 8th and received public testimony from the coal, oil and gas, and hard rock mining industry to speak to the subcommittee about their concerns on how those revenue sources are utilized. The subcommittee also looked at two programs in which there was not sufficient information to allow them to make decisions or had additional concerns about how those programs were operated. The subcommittee will be drafting a letter to EQC to ask for support to have the two programs go through the performance audit process. Those programs are the Orphan Share process and the Future Fisheries program. A full report and draft legislation will be provided at the June LFC meeting.

Long Range Building Funding Interim Study (Tape 2A-002)

Cathy Duncan, Senior Fiscal Analyst, LFD provided a brief update on Long-Range Building “Cash” Program Funding Subcommittee Progress. (Exhibit 2) The second meeting of the Subcommittee was held March 9, 2006. Progress has been made in defining the problem,

analyzing two funding methodologies, and developing a funding solution. The subcommittee requested staff to:

- Obtain information from the Office of Budget and Program Planning regarding available funding for the 2009 biennium.
- Contact Montana's Bond Council and the IRS to clarify questions associated with the "Future Funding" methodology, and
- Draft a brief about the "Future Funding" methodology.

The subcommittee plans to meet via conference call to discuss this information. The final report with recommendations will be provided at the June LFC Meeting.

Fiscal Notes Improvement Working Group (Tape 2A-068)

Jon Moe, LFD provided a brief update on the Fiscal Notes Improvement Working Group. The working group was initiated by the Legislative Council to study the fiscal note process and format with the intent of determining how fiscal notes might be improved to provide better information to the legislature. Members of the working group are Rep. David Wanzenried, Rep. John Sinrud, Rep. Michael Lange, and Rep. Tim Callahan. The working group met for the first time Thursday, March 9, 2006 and discussed the following topics:

- Overview of the fiscal note process
- Results of a planned survey of all 150 legislators
- Proposed changes to the existing format by OBPP
- Potential options
- Selection of options for further research and cost analysis.

The working group is scheduled to meet again in June to discuss recommendations to the Legislative Council and LFC.

4. Status Reports on Other Interim Study Committees (Tape 2A-132)

Alan Peura, LFD presented an update on the Postsecondary Education Policy and Budget Subcommittee (PEPB) (Exhibit 3). The PEPB subcommittee met February 23, 2006 and began working on the work plan projects adopted in December. The subcommittee unanimously

approved the Shared Policy Goals and Accountability Measures for the Montana University System, as well as renewed the Agreement with the Montana Board of Regents. The subcommittee intends to use this document to serve as the foundation for PEPB to clarify to the university system what policy goals that the legislature is interested in as part of the 2009 biennium budget. From this policy foundation, PEPB is considering a series of funding initiatives put forth by the Commissioner of Higher Education, to potentially recommend New Proposal-DP's for funding in the next budget, together with building in accountability measures as part of HB 2.

Budget "Pressure Points"

5. Agency Appropriations Transfer Requests (Supplementals) (Tape 2A-305)

Taryn Purdy, Principal Fiscal Analyst, LFD provided a memo on Agency Appropriations Transfer Requests (Supplementals) dated March 9, 2006 (Exhibit 4) and a memo from LFD staff on the Initial Analysis on Appropriation Transfers Submitted to the Division. (Exhibit 5) She explained that under statute, if the Governor or other approving authority, wants to move money from FY 2007 to FY 2006 it has to be done through an appropriations transfer or supplemental. The purpose of this memo (Exhibit 4) is to inform the LFC of 5 potential transfers of appropriations from FY 2007 to FY 2006. It is the obligation of the LFC to report to the Governor whether the requests meet statutory criteria and to raise any necessary compliance issues. If the LFC does not provide a report, the Governor or other approving authority can authorize the transfer 90 days after the date the request was forwarded to the committee. Only the DNRC appropriations transfer is forwarded to the LFC for review and comment at this time. Because the other proposals were submitted in the last few days, LFD staff has not had an opportunity to provide a thorough analysis and so will forward those requests within the time frame established by the LFC.

DNRC Appropriations Transfer - (Tape 2A-365)

- Barbara Smith, Associate Fiscal Analyst, LFD provided a power point presentation on DNRC Cash Flow Issues. (Exhibit 6) The purpose of this presentation is to provide background information on this appropriation transfer process, identify fire protection and suppression funding issues and to obtain direction from the LFC to the subcommittee

The first part of the supplemental transfer is the approval of a time sensitive program transfer of \$2.0 million in general fund authority in FY 2007 from the Water resources Division to the Forestry Division. This \$2.0 million is in addition to the \$2.5 million supplemental transfer that occurred in December 2005 for the same purpose. This appropriation transfer must be commented upon by the LFC. The second proposal requests transfer authority within the Trust Land Management Division of the Department of Natural Resources and Conservation of \$100,000 of state special revenue from FY 2007 to FY 2006 for the Land Banking Program. The following potential options were provided for LFC consideration:

- Raise Assessments
- Revise Assessments – expand beyond classified forest lands
- Do nothing

Rep. Buzzas asked if all appropriate parties are being assessed.

Ms. Smith said that land that falls outside the classification of forestland is not being assessed a fee, however, it is protected by the state.

Department of Corrections

Pat Gervais, Senior Fiscal Analyst, LFD explained that the Department of Corrections currently projects a deficit for FY 2006 of \$13 million and plans to utilize unexpended Juvenile Delinquency Intervention Program (JDIP) funds to reduce the cost to about \$11.5 million. Preliminary issues that staff has identified based upon initial review is that the request for transfer appears to be unnecessary because funding for secure care was appropriated as an unrestricted biennial appropriation. Additionally, the department has not provided an estimate of the potential savings attainable through implementation of their proposed cost containment measures and there is no indication that the actions will reduce spending in the second year of the biennium to a level that will maintain expenditures within the biennial appropriation as required in statute.

Department of Public Health and Human Services

Lois Steinbeck, Senior Fiscal Analyst, LFD explained that the LFD received an appropriation transfer request from the OBPP of \$11.4 million in general fund. The transfer request is \$5.3 million greater than the \$6.1 million shortfall projected for FY 2006 in the February budget status report received by the LFD in February. The request does not identify a specific plan of action to contain expenditures to either avoid or mitigate a shortfall in FY 2007. Accompanying documentation lists a variety of options that can be taken to achieve various amounts of savings up to \$74.7 million and discusses the negative impacts of each option.

Department of Revenue

Greg DeWitt, Legislative Fiscal Analyst, LFD explained that the LFD received a supplemental appropriation from the Department of Revenue (DOR) to address a general fund shortfall associated with expert witness and other litigation expenses. The current proposal is to make up to \$375,000 of FY 2006 general fund expenditures with appropriations for FY 2007. Upon review of the plans submitted as part of the proposal, staff raises the following issues:

- Plan does not contain expenditures within appropriations
- Plan does not specify reductions

David Ewer, Director, Office of Budget and Program Planning (OBPP) said notice is being given today because the budget office wants to begin the statutory 90-day window for legislative deliberations, investigation, and recommendations. Mr. Ewer also said the budget office understands the need to monitor these situations carefully and the responsibility to mitigate the supplemental needs with a plan.

Chairman Cobb said in order to provide staff time to analyze the requests, the three supplemental appropriation transfer requests will be mailed to LFC members on March 17th. The LFC will have 90 days to review the requests and report to the Governor. The LFC will take action on these requests at the June 9 and 10 meeting or sooner if necessary. Agency plans and staff issues will be posted to the LFD website at <http://leg.state.mt.us/css/fiscal/default.asp>

Judiciary request for fiscal year transfer – supplemental (Tape 2B-

Pat Gervais, LFD, explained that the Judiciary is requesting a \$3.0 million supplemental for District Court Operations. One of the issues raised by staff is that the Judiciary may not have sufficient appropriation authority to move from FY 2007 to FY 2006 to cover this cost overrun and maintain ongoing branch operations. The Judiciary indicates the only option available to contain these expenditures would be to stop all payments for these services for the last three or four months of FY 2006. The branch has not articulated a plan to reduce spending in the second year of the biennium to maintain expenditures within the appropriation level. The branch has indicated that an expedited supplemental appropriation will be requested from the 2007 Legislature. The memo dated February 23, 2006 included in the committee notebook provides detailed information regarding the District Court cost overrun. (Exhibit 7)

Jim Oppedahl, Administrator, Montana Supreme Court explained that a large contributing factor to the need of a supplemental is that the FY 2006 appropriation for variable costs is \$2.2 million less than the actual costs incurred in FY 2005. The Judicial Branch plan for the remainder of FY 2006 and FY 2007 is to carefully monitor expenditure obligations on a monthly basis. The only option available to the Branch would be to stop all payments for indigent defense obligations.

Department of Justice – Major Litigation Costs

This report (Exhibit 8) was included in the LFC notebook but was not formally presented.

6. Department of Corrections Current Budget Status and Long-Term Solutions (Tape 2B-744)

Pat Gervais, LFD presented two documents: 1) a memo requesting the Department of Corrections focus their presentation on solutions to the issue of population growth; (Exhibit 9) and 2) response from the Department of Corrections. (Exhibit 9a)

Bill Slaughter, Director, Department of Corrections (DOC) presented potential solutions including some “out of the box” concepts, for reducing the correctional population. These included implementation of more drug courts, changes in the use of consecutive prison terms, and review of criminal statute penalties.

Chairman Cobb appointed Rep. Tim Callahan, Rep. Ray Hawk, Sen. Keith Bales and Sen. Don Ryan to provide oversight for DOC long-term solutions.

Public Comment

Representatives from various associations offered comments to the committee in support of the proposed supplemental. Comments were received from Joe Lamson, Office of Public Instruction; Tom Bilodeau, MEA-MFT; and Randy Seamers, Labors Union.

7. Montana State Fund Litigation – Potential General Fund Impact

This report (Exhibit 10) was included in the LFC notebook but was not formally presented.

8. Pension Plans Unfunded Liability: Where to from Here? (Tape 3A- 600)

Jon Moe, Fiscal Specialist, LFD presented a report on Retirement Systems Unfunded Liability. (Exhibit 11) The purpose of this report is to provide an update regarding the unfunded liability of the state retirement systems. Mr. Moe explained that during the 2005 Special Session, the Legislature appropriated \$125 million from general fund, \$100 million of which was provided to TRS and \$25 million to PERS. The State Administration and Veterans Affairs (SAVA) Interim Committee will be reviewing other options at their May and June meetings.

Clayton Schenck pointed out a report under Tab 5 from Pat Gervais, LFD regarding a possible supplemental appropriation for the Department of Justice (Exhibit 8) and a report from Kris Wilkinson, LFD under Tab 7 (Exhibit 10) on Montana State Fund Litigation that could cost between \$100 to \$125 million.

9. Impact of Natural Gas Prices on State Agencies: Update

This report (Exhibit 12) was included in the LFC notebook but was not formally presented.

FRIDAY, MARCH 10, 2006

ROLL CALL

Sen. Keith Bales

Rick Laible

Sen. Mike Cooney

Sen. Carol Williams

Sen. Don Ryan

Sen. John Cobb

Rep. Gary Branae

Rep. Rosalie Buzzas

Rep. Ray Hawk

Rep. Tim Callahan

Rep. Rick Ripley

Rep. John Sinrud

Clayton Schenck, Legislative Fiscal Analyst

Diane McDuffie, Committee Secretary

Call to Order

The 195th meeting of the Legislative Finance Committee (LFC) reconvened on Friday, March 10, 2006, and was called to order at 8:00 a.m. by **Senator Cobb**, Chair, in Hearing Room 102 of the State Capitol, Helena, Montana.

10. General Fund Update: 2007 Biennium (Tape 3B-070)

Terry Johnson, Principal Fiscal Analyst, LFD presented a written report and a power point presentation on the General Fund Revenue Update. (Exhibits 13 and 13a) The purpose of this report is to provide the committee with recent information on significant general fund revenue trends that are occurring in fiscal 2006. Mr. Johnson's report was divided into the following sections: 1) 2006 general fund revenue outlook including a discussion of selected fund revenue sources; 2) significant economic trends; and 3) a summary based on information received so far this fiscal year. He reported that based on data through the end of February 2006 total general fund revenue collections for FY 2006 may exceed the December special session revenue estimates contained in HJR 1. However, if supplemental funding above the level assumed by the legislature for the Departments of Corrections and Public Health and Human Services occurs, the ending fund balance would be reduced accordingly. Revenue trends portray an optimistic outlook for the future, but a thorough analysis of the "permanent" versus "one-time-only" nature

of these collections is imperative. LFD staff will continue to monitor revenue trends and a thorough analysis of current revenue trends will be conducted during late summer and early fall in preparation for the Revenue and Transportation Interim Committee's revenue estimating process.

Rep. Sinrud asked what was the net effect of SB 407.

Mr. Johnson said SB 407 was affective January 1, 2005. The significance of the effective date is the timing of when withholding receipts start to come in. There was a small impact in FY 2005, a larger impact in FY 2006, and an even larger impact FY 2007. The fiscal note alluded to a range of about \$35 million per year was anticipated to be the impact. Some of the impact that was expected in FY 2005 actually occurred in FY 2006.

Rep Sinrud said it appears we are down \$7.3 million in audit collections and do we know if the money appropriated went to hire auditors or was it shifted somewhere else.

Mr. Johnson said there is a lag that has occurred this fiscal year in terms of getting audit collections recorded. Also, Director Bucks testified to the Revenue and Transportation Committee that he had to put some of his audit resources on converting to the new IRIS system and those auditors were not able to do auditing work.

Rep. Sinrud requested a follow-up at the June meeting.

Sen. Laible asked what would cause a processing delay of 56 percent.

Mr. Johnson said that the DOR went through a series of conversion steps for the various tax types. In the case of individual income tax they just completed that conversion in October so that could be part of the reason.

In response to a question from **Chairman Cobb** regarding the amount of money coming in, Mr. Johnson provided a power point slide on a General Fund Balance Potential Scenario (Exhibit 13b). The slide shows:

- The projected ending fund balance at the end of the biennium at \$228.6 million;
- Potential supplemental appropriations at \$57.62 million;
- Potential old fund liability at \$113-140 million; and
- A Potential ending fund balance at \$58.6-26.6 million.

Mr. Johnson said the potential ending fund balance does not factor in the potential of additional revenues and if the trends continue for the rest of this fiscal year and into next year, the numbers go up accordingly. He also said if the estimates contained in HJ 1 are solid and the issues develop as shown in the slide there will not be a lot of money available.

Kris Wilkinson, Associate Fiscal Analyst, LFD explained the details of the three cases currently before the Montana Supreme Court: 1) Stavenjord; 2) Reesor; and 3) Satterlee. Ms. Wilkinson reported that these lawsuits could cost the general fund between \$99 and \$124 million. Currently there is estimated to be a shortfall in the Old Fund reserves of between \$14 and \$16 million. (Exhibit 10)

Rep. Sinrud asked Director Bucks to provide information on the appropriation for the IRIS conversion and the auditors hired to process individual income tax.

Dan Bucks, Director, Department of Revenue said he does not believe any of the new positions funded were assigned to do audit work associated with the development of the IRIS system and the department has not taken any audit resources to do non-audit work. In the process of converting to the new system the old data had to be re-audited and preexisting individual income tax auditors were used to do that, which is why new current cases are not being generated. Mr. Bucks explained that the IRIS conversion has caused a temporary down-turn in the traditional individual income tax audit returns.

Sen. Laible asked Mr. Bucks if the department will be back on track doing new audits and will the old audits done by the June meeting.

Mr. Bucks said that the amount of work involved in the data conversion can't be made up in a single fiscal year. The department is on track with respect to the new staff and they are not involved in this. He expects to be back on track by the end of the biennium.

Sen. Laible asked why less audits are being done if the new staff, hired to do more audits, are not being used for the old audits.

Mr. Bucks said more audits are being done. The data conversion work involved audits.

Sen. Laible commented that next session those audits will be looked at to see whether or not the increases in income tax, as a result of audits, significantly justifies the extra expense in hiring more auditors.

11. Public Schools Funding: Update on Special Session Action/Where to From Here? (Tape 4A-498)

Senator Don Ryan, member of the Quality Schools Interim Committee (QSIC) provided a chart on K-12 School Funding. (Exhibit 14). Sen. Ryan said the state was sued because of the lack of adequate spending at the state level. As shown in the chart, 1994 is used as a base year and the green bars on the chart show state dollars and the red bars show what local tax payers paid. From 1994 to 2005 the state's total increase in spending was \$50 million and the local taxpayers was \$106 million. The last biennium the state's new money going into schools for general fund was a total of \$73 million. The new money from the 2005 Special Session was all state money and no local match. He also said that the state addressed in some way all four issues of the court, by adding four new components to the funding structure, passed the definition of quality, added other factors that are not ANB related, and a cost of living adjustment was put into the new formula.

Rep. Sinrud asked why district share is down to 180 in FY 2007 from 320 in FY 2006.

Sen. Ryan said the numbers for district share and adopted state budgets for 2007 are not accurate and should not be used. The adopted state budgets are unknown at this point in time.

12. Energy Cost Assistance Program (LIEAP): Executive Action/Impact:

This report (Exhibit 15) was included in the LFC notebook but was not formally presented.

13. Governors Powers in an Emergency: Title 90

This report will be discussed at a later time.

14. SB 495 Revisited: Sale of Common School Trust Mineral Royalties (Tape 4B-057)

Roger Lloyd, Senior Fiscal Analyst, LFD presented a report on SB 495 Revisited. (Exhibit 16) The purpose of this report is to provide information on the enactment of SB 495 and the substantial financial impacts it has; present a new analysis showing the SB 495 plan; notification of a large general fund budget increase around 2013; and to provide options for LFC consideration. Mr. Lloyd explained that the significant increases in energy prices and increased mineral production have led to more tax revenue for the state. The increased revenue allows the SB 495 plan to possibly conclude in fiscal 2013 rather than 2031. There are both negative short-term and positive long-term impacts to the guarantee account and the general fund when the plan ends.

Monte Mason, Minerals Management Bureau Chief, DNRC noted that with the various scenarios presented by Roger Lloyd there is an interest cost component. The amount of revenue that's available from royalties in scenario 2 does cost an extra \$2.4 million in interest cost. The early payoff option does minimize the interest cost and maximize the amount that's available for distribution over the life of SB 495. The downside is there is less available for the next few years.

Sen. Laible asked what was the justification for SB 495.

Mr. Mason said it was an effort to try to resolve issues of shortages in money available for school funding.

Chairman Cobb appointed Sen. Ryan and Rep. Ripley to work on the options and provide a recommendation at the June meeting.

15. Management of State Lands: Potential Issues and Committee Action (Tape 4B-335)

Barbara Smith, LFD provided a power point presentation on Management of State Owned Lands: Potential Issues for Examination. (Exhibit 17) The purpose of this presentation is to highlight potential issues identified through recent legislative requests, provide options to the LFC for consideration, and coordinate activities with EQC. Her presentation provided information on state lands, DNRC and FWP mission of land management, diversification issues, leasing policies, and Land Board issues. Ms. Smith explained that the slides on pages 4 and 5 are examples of issues staff found that illustrate some of the points in the memo from Barbara Smith and Krista Evans dated February 16, 2006 regarding management of state-owned lands. (Exhibit 17a) Ms. Smith also discussed the letter to the members of the State Land Board from Clayton Schenck dated February 17, 2006. (Exhibit 17b)

Krista Evans, Research Analyst, Legislative Environmental Policy Office (LEPO) said the Co-Chairs of the EQC were involved in the decision to send the memo (Exhibit 16a) to the full committee. The memo was not to infer that any agency was acting inappropriately. The purpose of the memo was to outline and highlight issues that might involve significant policy issues and decisions. The EQC has decided to consider this at their next meeting. During this interim the EQC Study Subcommittee has been doing a study on the administrative costs associated with trust lands, and an update will be provided to them at their next meeting. At the March 17th EQC meeting there will be a panel discussion and the entities that will be on the panel are: Director Sexton, DNRC; Director Hagener, FWP; and Senator Cooney.

Director Sexton commented that she is looking forward to working with the members and will provide any information needed.

Chairman Cobb appointed Sen. Cooney, Sen. Laible, Sen. Williams and Rep. Ripley to examine potential issues regarding state lands management and the options for LFC consideration.

16. Department of Public Health and Human Services: Program Issues (Tape 5A-020)

Budget Status: Budget Pressure Points – Lois Steinbeck presented a memo on the DPHHS Budget Status Report. (Exhibit 18) The purpose of this report is to provide the committee with information regarding the DPHHS FY 06 shortfall. The department has estimated a general fund shortfall of \$6.6 million in FY 06, with a potential additional \$1 million not included in the total due to the Deficit Reduction Act (DRA) for the Foster Care program. The difference between the \$6.6 million and the \$11.4 million requested by the executive is that in addition to these amounts in this report there would be \$3.0 million due to the DRA and an additional \$1.8 million in Medicaid costs. The DPHHS shortfall for the 2007 biennium could rise to at least \$20 million.

John Chappius, Deputy Director, DPHHS agreed with Ms. Steinbeck that the DRA and problems with Medicaid is the difference between the \$6.5 and \$11.4 million. He said the department does not have guidance from CMS on exactly how they will implement some of the DRA items, specifically targeted case management. He also said it was not the intention of the department to be misleading with regard to the BSR.

Sen. Cobb requested that the mitigation plan from the department be very detailed.

Joan Miles, Director, DPHHS said it will not be feasible to come back into budget next year without very extraordinary cuts in services and the department does not feel this would be in the best interest of Montanans. Ms. Miles said the department will make every effort to provide options that could be put in place.

Medicare Part D Implementation – Lois Steinbeck, LFD summarized the issues and discussed the department's response to the questions in her memo dated February 21, 2006. (Exhibit 19). Also included in the mailing was a list of implementation issues (Exhibit 20) and an update on the implementation of Part D from the department. (Exhibit 20a)

John Chappius, DPHHS said when it became apparent that the department would have to intervene on behalf of clients and pharmacies were assuming liability, the state became a

guarantor for the clients paying too high deductibles and for clients auto enrolled into plans that did not serve Montana. The department is in line for a waiver from the federal government for reimbursement of benefits costs and administrative costs in relation to helping clients.

HIFA Waiver: - Update on Committee Workgroup study – Lois Steinbeck, LFD provided an update on the HIFA Waiver Workgroup. (Exhibit 21) The workgroup met two times via telephone conference call to review elements of the waiver and consider issues raised by staff.

The workgroup requested that:

- DPHHS include specific clarification of the maintenance of effort (MOE) requirement in the waiver proposal
- DPHHS include in its Executive Planning Process (EPP) request the cost to continue enrollment in the HIFA waiver at the initial levels
- The Office of Budget and Program Planning (OBPP) provide its estimates of income and expenditures from tobacco tax revenue each year of the HIFA waiver to the LFC

The workgroup also requested that the LFC continue to monitor several issues:

- The LFC continue to monitor CHIP enrollment and outreach, including the cost of outreach
- The LFC monitor the use of the additional \$1.3 million for mental health services under the proposed waiver
- The LFC monitor enrollment of eligible Mental Health Services Plan (MHSP) participants in the new Medicare Part D prescription drug program and all issues associated with such enrollment

DPHHS anticipated that publication of the final HIFA proposal and decision by the Governor would be in mid January. However, workloads associated with Part D transition have deferred work on the HIFA proposal.

Promoting Economic Success for Montana Families: Report on Seminar Results – Lois Steinbeck, LFD discussed the training brought by the National Conference for State Legislatures (NCSL) funded by a grant from the Annie Casey Foundation. The focus of the training was how to help families achieve middle-income status. The NCSL brought in a variety of speakers to talk

about various aspects. LFC members that attended the training are: Rep. Callahan Rep. Hawk, Sen. Williams, and Sen. Cooney.

Rep. Callahan commented that the training was very good and it provided information on how to develop economies based on the aspects of rural natures, and asset building to help families start to build assets. The group is considering getting back together to talk about if there is a plan for the future.

Rep. Hawk said there is no mandatory financial literacy curriculum required in our public schools in Montana. Marilyn Daumiller, LFD, Rep. Hawk and Rep. Warden met with Bud Williams, OPI; Steve Malloy, Board of Public Education; and Bob Vogel, Montana School Boards Association to find out about financial literacy classes. Mr. Williams assured them that financial literacy is in fact required curriculum for high schools in Montana but they don't enforce the accreditation standards. Rep. Hawk asked Mr. Williams to provide information on how many school districts in the state in fact require it as a mandatory course, and how many school districts offer the class as an elective.

Marilyn Daumiller said in the fall, OPI will do a survey of all schools to request what is being taught with regard to the standards. OPI will add Rep. Hawk's questions into the survey to find out what is happening in financial literacy throughout the state. The results will be provided in March to the Board of Public Education and to the LFD.

Federal Budget Reconciliation Act Changes: Potential Impacts – Marilyn Daumiller, Associate Fiscal Analyst, LFD provided a report on the Federal Deficit Reduction Act (DRA) of 2006. (Exhibit 22) The purpose of this report is to provide information about the federal DRA and highlight some of the major impacts of the President's proposed federal fiscal year 2007 budget. Ms. Daumiller explained that the Figure 1 on page 3 of the report summarizes the potential impacts of the act, and in most cases presents the worst-case scenario if the legislature were to appropriate general fund to maintain services at the current level - \$9.3 million this biennium and \$19.9 million in the 2009 biennium. These cost increases do not take into account savings that are expected to accrue due to the change for Medicaid drug reimbursement nor do the estimates

include any cost saving measures or any reductions in services that the legislature may deem prudent. The most significant cost appears to be due to changes in targeted case management services at about \$6.9 million this biennium and \$11.8 million over the 2009 biennium. The DRA makes several changes to the Child Support Enforcement Program, which net an estimated cost of \$3.6 million in the 2009 biennium.

Tape 5B-018

Lois Steinbeck, LFD said that the DRA reduces reimbursement for school transportation for special needs children at an estimated cost of \$4 million over the 2009 biennium. Schools that rely on Medicaid payment for such services would lose the reimbursement. Should the DRA occur according to this preliminary report the potential impact would be about \$10 million as shown in Figure 1, Exhibit 22. At the time of this report the department was also preparing a report to the Governor regarding budget impacts that was included in the LCF mailing. (Exhibit 23). LFD staff will continue to gather information about the act for the June meeting.

Lois Steinbeck explained that the President's proposed budget for federal fiscal year 2007 includes more reductions in federal funding for social and human services programs. Changes that can be estimated and appear to be in excess of \$1 million can be found on page 3 of the DRA report. (Exhibit 22)

An option for the LFC to consider is:

- Draft a letter for consideration for the Congressional constituency

John Chappius, DPHHS said targeted case management dollar wise, is the highest program that potentially would be reduced. He explained that targeted case management is a service in which there are providers for vulnerable populations that plan, coordinate and take people to services. The DRA states that if there is a potential third party payer Medicaid can no longer participate. The department has not received guidance from CMS on how targeted case management will be handled and that is why the department did not include the \$5.9 million in the BSR. Mr. Chappius also explained that Child Support Enforcement (CSED) is largely funded through federal grants and if the department loses the federal funding, the stability of the entire CSED is

in question and if CSED is not adequately functioning the department could lose the TANF grant.

Public Comment (Tape 5B-287)

Rep. Mary Caferro introduced Greg Daly, Coordinator for the County Family Child Health programs at the local county health department.

Mr. Daly said he works with families that are very dependent on targeted case management. He explained a situation regarding a family with Section 8 housing whose subsidy was being cut due to the recent Bush Administration cuts.

A family member testified that she hopes something can be done so other families won't be affected by these cuts.

Rep. Caferro encouraged the legislators that represent all of the people of Montana including the most vulnerable to come up with strategies that are smart, responsible and moral.

Tape 5B-362

Classification of Certain Costs in the State Accounting System – Lois Steinbeck provided a report on Classification of Certain Costs in the State Accounting System. (Exhibit 24) The purpose of this report is to provide information on how certain costs are recorded in the state accounting system by programs in the Department of Public Health and Human Services (DPHHS). Ms. Steinbeck said DPHHS has published accounting direction to its divisions, which has been reviewed by LFD staff and the Department of Administration. In discussions with the department there are still areas where should the cost be a grant or a benefit. LFD staff wishes to have a closer review of all the costs that are being moved.

17. Information Technology Draft Strategic Plan Overview (Tape 5B-429)

Greg DeWitt, Senior Fiscal Analyst, LFD introduced Dick Clark, the new State Chief Information Officer (CIO) at the Department of Administration (DOA). Mr. DeWitt distributed the draft update to the State of Montana Information Technology Strategic Plan draft (Exhibit

25), a letter to the LFC regarding agencies currently operating without an approved IT plan (Exhibit 26), a letter to agency directors from the LFC emphasizing the importance completing agency information technology strategic planning requirements of the MITA (Exhibit 26a), and a report on the Information Technology Draft Strategic Plan Overview (Exhibit 27). The purpose of the report is to advise the LFC of potential impacts to fiscal policies and fiscal impacts implied within the 2006 update of the state information technology strategic plan. The report identifies several issues for committee consideration.

Issue: Measurability of Goals

Mr. DeWitt explained that the goal identified in the plan update and the objectives that support the goals are general statements not readily adaptable to developing measures that could be used to determine success or failure. This is relevant since Montana law requires development of a biennial report on information technology, and specifies that the report assess the progress toward implementing the state strategic information technology plan.

Dick Clark, CIO, DOA said he would like to work with each agency to come up with an understanding of where the agencies are in the maturity model for each one of the issues and work with them to provide realistic performance measures.

Rep. Sinrud asked if ITSD has met all the goals and objectives listed in the plan.

Mr. DeWitt said a progress report is included in the Biennial Report but whether or not the goals have been met the department still has to have a strategic plan.

Action: The LFC requested that the DOA provide a list of measures on an agency-by-agency basis that would be used to access the plan goals and objectives.

Issue: Open-source

Mr. DeWitt explained that open-source software is software for which the underlying programming code is available to the users so that they may read it, make changes to it, and build

new versions of the software incorporating their changes. The strategy implies a direction that may expose the state to significant but yet unknown risk.

Action: The LFC requested the CIO include updates of the open-source software evaluation as part of regular updates to the LFC.

Issue: Alternative Funding Approaches for Information Technology

Mr. DeWitt explained that under current practices when multiple agencies collaborate on a system, each agency requests funding for its portion of the system. The plan implies a different approach that may include reviewing all information technology requests in one legislative committee, developing an information technology funding pool with a dedicated source of revenue, or other approaches that would provide more stability to the funding of critical information technology projects that have a statewide impact or for agencies with more restrictive fiscal resources.

Action: The LFC requested the CIO to include actions and progress for the alternative-funding objective in regular updates to the LFC prior to implementation.

Issue: An initiative to provide a state business continuity plan in case of disasters or emergencies could cost \$25 million

Mr. DeWitt explained that one of the action items of the objective to expand business continuity and disaster recovery planning calls for replacing the state's existing data center in Helena with a new state of the art data center and establishing a redundant backup and recovery site outside of Helena.

No Action was taken on this issue.

Mr. DeWitt discussed the letter to the LFC regarding agencies currently operating without an approved IT plan (Exhibit 26), and the letter to agency directors from the LFC emphasizing the importance to the Legislature of completing agency information technology strategic planning

requirements of the MITA. The letter also emphasizes the committee's intent to recommend that as a condition for receiving funding, the Legislature verify that a budget request is supported within agency information technology plans. (Exhibit 26a)

Action: The LFC approved the letter be sent to the agency directors.

Dick Clark, CIO, DOA discussed the CIO Report (Exhibit 28) and the Major IT Project Portfolio (Exhibit 28a). The report outlines information regarding MITA compliance, IT Projects, Policies, and the State Strategic IT Plan. The Major IT Project Portfolio is a summary of all the IT projects that are underway in State Government. Mr. Clark updated the committee on major information technology projects and exceptions to state information technology policies and standards that have been requested by state agencies.

18. Update Re: Status of Purchase of Capital Hill Mall

This report (Exhibit 29) was included in the LFC notebook but was not formally presented.

In response to an earlier question from **Rep. Sinrud** regarding the numbers for district share and adopted budgets for 2007 (Exhibit 13), **Sen. Ryan** explained that the 180 for 2007 is the minimum taxes required at the local level if every school district adopted the base budgets. The number is relevant because that is the base budget; it is a reduction from the 1994 minimum requirement.

19. Committee Information Requests (Tape 6A-331)

Taryn Purdy, LFD, presented a report on Committee Information Requests. (Exhibit 30) Ms. Purdy explained this is a summary of issues raised by staff related to information requests that the committee has had each meeting. Also included under Tab 19 are the performance management reports that the committee requested (Exhibits 30a, 30b, 30c, 30d and 30e) and the Economic Analysis on the Forensics Science Laboratory Building in Missoula. (Exhibit 31)

Rep. Sinrud asked for an explanation of funding for the TMDL. (Exhibit 30d)

Ms. Smith said there are two sources of funding for the Total Maximum Daily Load projects; a federal EPA grant for non-point source pollution tracking and the general fund.

Rep. Sinrud asked where DEQ got \$50,000 to do the EIS on the Gallatin River.

Ms. Smith said the \$50,000 is general fund carry forward authority.

Rep. Sinrud asked why DEQ did not spend all of the money appropriated.

Ms. Smith said she did not know but would look into it.

Chairman Cobb provided the following recommendations regarding the committee information requests:

- Review the Montana Advisory Council for Indian Education in six months
- Staff continue to work with Centralized Services Division in DNRC, Governor's Office, and State Auditor's Office to provide measurable objectives
- Revisit the Child Support Enforcement Division prior to the next legislative session

Ms. Purdy explained at the October meeting there was an issue raised on the Forensics Lab and whether or not that should be a lease facility or whether or not the state should look at buying and the committee requested the DOJ prepare an analysis. (Exhibit 31)

Rep. Hawk asked about the \$4.3 million residual value after the 30-year lease.

Skip Culver, Division Administrator, Centralized Services responded that the \$4.3 million is the discounted value after the 30 years. It is not the market value.

Larry Fasbender, Director, Department of Justice said they are aware of the fact that the forensics building is extremely costly. In preparing the analysis, the assumption is that when the present lease expires in 2015 the new negotiated rate will double, followed by 15 percent increase every 5 years thereafter. If the state were to buy the building over a 30-year period the department can show substantial savings. It is the recommendation of the Department of Justice that every effort be made to purchase the building.

Rep. Ripley asked if the loss of revenue to the state and local government was taken into account.

Mr. Fasbender said they did not determine how much that would affect on the long-term the property taxes that would be paid to the city of Missoula.

Rep. Sinrud asked if maintenance costs over 30 years were included in the analysis.

Mr. Culver said Table 3 shows utilities and maintenance increasing four percent per year over 30 years.

20. “Bulldog” Reports (Tape 7A-032)

CHIP Enrollment Status

Sen. Williams provide an updated on CHIP Enrollment. (Exhibit 32) She and Sen. Cooney at the last LFC meeting requested the department find out why enrollment in the CHIP program hadn’t grown. The following changes have occurred since the December meeting:

- CHIP enrollment now stands at 12,231, up from 12,011 in February
- DPHHS has initiated a more aggressive outreach campaign to include television and other media estimated to cost \$50,000. CHIP enrollment has increased due to the television campaign.

Sen. Williams and Sen. Cooney will continue to monitor CHIP Enrollment Status

Lois Steinbeck, LFD commented on the Special Revenue Fund – health and Medicaid initiatives – status. (Exhibit 33) She said because the HIFA waiver is funded from the tobacco tax proceeds the committee requested the budget office provide estimates of what the income was and what the expenditures were. This memo does not provide that information, but it’s also not clear that this memo was submitted in support of that specific request.

Montana State Hospital

Sen. Laible provided a written response from Bob Mullen addressing several questions he posed and a written response from Joyce DeCunzo regarding the Home and Community Based Services Waiver. (Exhibits 34 and 34a)

Joyce DeCunzo, Administrator, Addictive and Mental Disorders Division explained in the last session the division received an appropriation available July 1, 2006, to develop a Home and Community Based Waiver program for individuals with mental illness. The HCBS waiver is a special federal program that is intended to keep people out of nursing homes. Ms. DeCunzo said other priorities such as Part D implementation, the HIFA waiver, development of a crisis stabilization program and the census at the MSH has taken staff time. The department is currently working on the waiver but does not have an implementation date. It could be another year.

Rep. Buzzas commented that it is frustrating to hear it could be another year before the program may be implemented and she would like to see evidence of strengthening those community services which is what's ultimately going to get the numbers down at the MSH.

In response to several questions from **Chairman Cobb** regarding the waiver, Ms. DeCunzo said the waiver will not take a long to write, in fact, it is moving along quickly and the federal government will have it by the end of April.

Senator Laible and Rep. Buzzas will continue to monitor the situation and follow-up on the waiver update at the June meeting.

Montana Developmental Center in Boulder

Chairman Cobb provided a report prepared by staff on overtime costs, relocation of individuals at MDC, and implementation of the new provider payment system. (Exhibit 35)

Mitigation of overtime expenses at MDC

Sen. Cobb explained that the items that contributed to overtime include the federal mandate to investigate allegations, a shortage of nursing staff and the need for relief staff. Management actions have been taken to mitigate overtime costs.

Relocation of individuals at MDC into the community and reduction of the waiting list for disability services by 15 individuals

Sen. Cobb said the first four individuals will be moved into the community by the end of June 2006, and the remaining 15 individuals will move into the community by the end of December. Additionally, as soon as space is available with community providers, the department will move 15 individuals from the waiting list as requested and funded by the legislature in the 2005 session.

Implementation of the new provider payment system

Sen. Cobb said along with concern about moving people out of MDC, there is concern about the new provider payment system. Both providers and the department are concerned that there is not enough money in the system to pay for the individual treatment as required by the new funding formula. The department is collecting information on the costs of services and by the end of March they should have a better idea of what cost will be to the state. This could make it difficult to relocate MDC's clients that are hard to serve.

Sen. Williams asked if the department is jeopardizing the safety of staff or clients when they reduced overtime costs.

Kathleen Zeeck, Superintendent, Montana Developmental Center said they are maintaining staff at a level they feel provides for the protection of individuals. However, if the situation becomes dangerous then staffing levels will be increased. The savings experienced to this point has been a dramatic reduction in the time off allocated for individuals and training is no longer being provided for staff.

Sen. Cooney provided a handout of questions he posed to the department regarding the Developmental Disabilities System Rate Redesign and Community Service Provider Issues (Exhibit 36) and asked the department if they would like to comment.

Jeff Sturm, Program Director, DD, said he would be able to provide a better report in June with more information because the rates are not final yet.

Senator Williams asked if the HB 2 money to remove 15 individuals from the waiting list are the same 15 individuals being moved from MDC in Boulder.

Mr. Sturm said they are using the money from those 15 slots to move 15 people out of MDC. They are then going to fund those individuals with MDC dollars and move 15 individuals back into the community waiting list. The administrative rules allow them to move MDC ahead of everybody else. They understand the intent of the legislature was 15 community people off the waiting list and they are going to do that.

Secretary of State's Office

Senators Cooney and **Ryan** addressed the statewide voter file and the technology issue. At the last meeting they were asked to check into the issues of the statewide voter file and the goals and objectives for the SOS. Sen. Cooney said the statewide voter project is moving along and the issues they are working out seem to be falling on the vendor side so there is no additional cost to the SOS. He said he is satisfied with their response and sees no reason to continue to follow this.

Sen. Cooney said the issue with the goals and objectives was that the incorrect version was sent to the LFD. The correct version was provided and is on file with the LFD.

Office of Economic Opportunity – Goals/Obj.

Sen. Ryan said a complete report was received on Ongoing Economic Development and Marketing/Recruitment Activities from Evan Barrett, Chief Business Office, Governor's Office of Economic Development. (Exhibit 37)

Director Barrett stated there are two things that continue to stand out, one of which is lack of adequate State commitment to workforce training grants and the unavailability of adequate building infrastructure available in a timely manner for prospects.

21. Other Reports (Tape 7A-683)

Greg DeWitt, Senior Fiscal Analyst for the LFD presented the Budget Amendments (Exhibit 38). He informed the committee that LFD staff identified no issues and that no action is required. However, after reviewing the budget amendment request by the Department of Administration,

staff questions whether there may be another way to handle the appropriation. Mr. DeWitt provided an additional report on the Budget Amendment for Federal Flood Control Funds. (Exhibit 38a) Mr. DeWitt explained that a more appropriate appropriation for the associated funds would be a statutory appropriation instead of temporary appropriations in HB 2 and augmented with a budget amendment when interim receipt of federal revenue exceeds the HB 2 appropriation.

Rep. Ripley asked why the department is requesting a budget amendment for something that could be funded from the Future Fisheries program

Ms. Smith said that the department's response was that it is complimentary to the Future Fishiers program but not exactly the same. As part of the RIT subcommittee, the request for a performance audit could address that issue.

Ms. Purdy explained that these budget amendments have already been approved. If the committee wants the amendment to be withdrawn temporarily, the LFD could pose that to the budget office.

Ms. Smith said she would follow up on the budget appropriation, specifically how the money will be spent and how it relates to the current Future Fishiers program.

The committee took no action on this issue.

Taryn Purdy, LFD presented the Operating Plan Changes and Program Transfers (Exhibit 39) and the Operating Plan Changes of a Time Sensitive Nature. (Exhibit 41) She explained that the committee has an opportunity to respond before the budget office approves any of the budget change documents that by statutory definition meet the criteria that means they might represent a change in policy. Staff has commented on three of the proposed changes.

Rep. Sinrud asked what the major litigation is from the Montana Highway Patrol.

Ms. Gervais explained that the biennial appropriation for major litigation was \$400,000. The Department of Justice has requested to move \$200,000 from Highway Patrol to the Legal Services Division and indicated they would likely be requesting a supplemental of \$200,000.

Rep. Sinrud asked what the cases are and estimated costs for each.

Ms. Gervais said she did not have that information with her but would be happy to provide it.

Ms. Purdy explained that since the last meeting of the LFC, the Office of Budget and Program Planning approved as time sensitive one operating plan change in the Department of Justice that met the criteria.

Jon Moe, LFD provided a summary of the Required Reports. (Exhibit 41) These are reports required either in HB 2 or in statute. He pointed out that due to the diligence of LFD staff, the reports that are due are all in at this point in time.

22. Information Presentations to Subcommittee (Tape 7B-183)

Taryn Purdy, LFD, presented a report on Information Presentations to Joint Appropriations Subcommittees. (Exhibit 42) LFD staff received a request on how subcommittees might receive more pertinent information from agencies in the subcommittee process. Staff does not recommend that the agency presentations as they now are be completely eliminated. Instead, certain information might be presented in more standardized form (potentially a template), following the same outline as the budget analysis.

Sen. Laible commented that this would be a great help to new legislators and he would like to have staff narrowly define areas where changes could be implemented. He asked staff to create a template for the DOR.

Ms. Purdy said that Health and Human Services and General Government might be a good way to compare how the templates will work.

Chairman Cobb appointed **Sen. Laible** and **Rep. Sinrud** to work with staff on the DOR template and **Chairman Cobb** and staff will work on the Health and Human Services template.

Committee Suggestions for Reports at the June LFC Meeting (Tape 7B-361)

- Supplementals
- Update on proposed budget cuts for Health and Human Services
- Rainy Day Fund
- Breakdown of cost-benefit of building costs statewide
- Costs associated with DEQ subdivision review process and a financial review of EIS for the Gallatin ORW
- General fund update
- Update on interim studies

Committee Action Required (Tape 7B-420)

DNRC supplemental

- Land Banking Program

MOTION: Sen. Cooney moved to adopt Option 1, “Inform the Governor that the committee does not raise any issues of statutory compliance with the proposed transfer”. **VOTE:** Motion carried.

- Fire Suppression Costs

MOTION: Sen. Ryan moved to adopt Option 1, “Inform the Governor that the committee does not raise any issues of statutory compliance with the proposed transfer. **VOTE:** Motion passed.

Decision on action to be taken on Judiciary supplemental

Clayton Schenck, LFD provided a copy of the Judicial Branch supplemental mitigation plan. (Exhibit 43)

MOTION: Rep. Buzzas moved to forward the Judicial Branch supplemental proposal (Exhibit 43a) to the committee today. **VOTE:** Motion passed with 10 members voting yes; 2 members voting no.

MOTION: Sen. Laible moved to report to the Montana Supreme Court that the proposed supplemental does not meet statutory requirements and the committee request the Judicial Branch return with financial detail of why expenditures are over the appropriation and provide details of their plan for the second biennium. **ROLL CALL VOTE:** Motion passed with 7 members voting yes; 5 members voting no. (Exhibit 44)

Direction to staff to deliver remaining supplementals by March 17

Chairman Cobb recommended the remaining supplementals be sent to the committee and individual subcommittees on March 17, 2006 with responses due May 1, 2006.

Fire Suppression Study

Chairman Cobb appointed **Sen. Bales**, **Sen. Cooney** and LFD staff to look at the following options:

- Protection Assessments
- HB 2 Appropriations
- Access to Governor's Emergency Fund

HIFA Waiver

MOTION: **Chairman Cobb** moved to have the "Bulldog" committees continue to monitor the HIFA waiver and CHIP enrollment and provide a report at the June meeting. **VOTE:** Motion passed.

Committee Suggestions for Reports at the June LFC Meeting (Continued)

Rep. Sinrud added to the June agenda a request for information on whether all agencies using PeopleSoft are accounting for each program and budget the same way.

DOR Data Access Issue

Clayton Schenck explained that staff discussed at the last meeting the exchange of tax information between the DOR and LFD with regard to differences over interpretation of the statute as to what the legislature and staff is entitled to for the purpose of revenue estimates. A draft Memorandum of Understanding (MOU) has been drafted to facilitate the exchange of tax information.

Mr. Schenck said that the Revenue and Transportation Committee has requested a bill draft to revise and clarify the data access statute and they encouraged the LFC to be a joint sponsor.

Dan Bucks, Director, DOR concurred with Mr. Schenck on the progress of the MOU. Mr. Bucks stated the DOR proposed the MOU as an approach to resolving these issues and to prevent recurrence in the future. Mr. Bucks said that the department is committed to providing the information needed, consistent with protecting the Constitutional rights of individual privacy, consistent with the requirements under Federal law.

MOTION: Rep. Sinrud moved the LFC be a joint sponsor with the Revenue and Transportation Committee on draft legislation. **VOTE:** Motion passed.

Governor's Powers in Emergency Management

Kris Wilkinson, Legislative Fiscal Analyst, LFD referred to her memo on the Governor's Powers in an Energy Emergency and the attached analysis performed by the Code Commissioner. (Exhibit 45) She explained that Montana adopted an Energy Emergency Contingency Plan in 1981 that was amended in 1989. She said that SB 521, which became effective May 5, 2001, added the price of energy as part of the definition of an energy emergency. The plan is designed to respond to energy shortages by establishing guidelines for implementing the Governor's Energy Supply Emergency Powers Act. However, the plan does not address high supply price as it was implemented prior to the inclusion of the price of energy in the statutes relating to an energy emergency. The Governor in Executive Order 25 appropriated \$1.5 million general fund to offset the cost of LIEAP. The question becomes whether or not the Governor has the authority to use these funds.

MOTION: Chairman Cobb moved to draft legislation to clarify statute. **VOTE:** Motion passed.

MOTION: Sen. Ryan moved to have staff draft a letter to the Montana Congressional Delegation expressing concern about the potential impacts of federal budget reductions being

considered in Washington D.C. **ROLL CALL VOTE:** Motion passed with 7 members voting yes; 5 members voting no. (Exhibit 46)

23. Committee Business (Tape 8B-465)

Clayton Schenck presented the items under committee business. (Exhibit 47) He discussed the progress of the committee Work Plan, the LFD Cost Report, and the LFD Compensatory Time Balances. He also provided several handouts on “The State of Aging” from the DPHHS. (Exhibits 48, 48a, 48b)

Next LFC Meeting

The next meeting of the LFC will be Thursday and Friday, June 8 and 9, 2006.

Adjournment

Meeting adjourned at 4:25 p.m.

Senator Cobb, Chairman

Diane McDuffie, Committee Secretary